



**CHEATHAM COUNTY PLANNING COMMISSION
MINUTES FOR MARCH 1, 2012**

Meeting was called to order at 6:00 p.m. by Chairman Mark Jarrell.

Chairman Jarrell called for the roll to be taken.

Members Present: Chester Hannah, John F. Werne III, James Atkins, Roger Hamiter, Mark Jarrell, Tom Cullen, Tonnie Trotter and Perry Keenan.

Members Absent: Buddy Wright

Chairman Jarrell declared a quorum present.

Others Present: Cheatham County Attorney Bill Herbert, Cheatham County Building Department Director Chris Atkins, Brett Smith with Ragan-Smith-Associates, Inc., Daniel Williams, Kristin Williams, Danny Denson, Alan M. Armstrong, Sharon D. Armstrong, James Denson, Michael Cain with Harpeth River Watershed Association, Charles Hand, William Street, Georgia Street, Jim Street, Joseph Downs, Catherine Downs, Paul Smith, Cindy Smith, Rose Gill, Hollis Gill, James Hedgepath, Stewart Spielman, Maggie Spielman, Kelly Hutchison, Anna Denson, Elaine Braver, Rusty Street, Thadd Collins, Mia Collins, Debbie Craft, Glen King, Johnny Forriest, Mike Toews, Charlie Dean, Nick Hellmann, Steve Hutchison, Joe Wiggins, Carol Wiggins, Glenn Reinick, Andrea Hand, Karole Manley, Charles Manley, John Long, Darlene Hamilton – (There appears to have been several more people present who failed to sign the sign-in sheet...FYI)

Approval of Minutes and Agenda:

***Motion made by Trotter to approve the Minutes for the February 2, 2012 meeting as presented and circulated; second by Cullen. Voice vote carried motion unanimously by all present.**

***Motion made by Keenan to approve the Agenda for this Meeting as Advertised; second by Trotter. Voice vote carried motion unanimously by all present.**

Public Forum For Each Agenda Item – Due to the volume of public comment given, a listing of each citizen's commentary is not being listed here. Please refer to the digital tape recording of this meeting to hear all commentary from the public or the meeting notes for a listing of those members of the public who spoke.

Agenda Items To Be Heard:

1. Mr. Daniel Moore and Mr. John Melton, requesting a Final Site/Master Plan approval. Property is located at 1044 Jackson Felts Road, Joelton, TN; map 39, parcel 40.15 and is zoned CPUD. Property is in the 2nd voting district and is not in a flood area.

2. Mr. Charles Dean, representing Guns and Ammo Depot, LLC, requesting a Site Plan Review for a possible gun range. Property is located at 1611 Hwy. 70, Kingston Springs, TN; map 91, parcel 67.06 and zoned I-2. Property is in the 6th voting district and part of the parcel is in the 0.2 percent and the AE flood area.
3. Mr. & Mrs. Charles & Andrea Hand, requesting a Zone Change from Agriculture to E-1. Property is located at 1551 Hwy. 70, Kingston Springs, TN; map 91, parcel 65.00. Property is in the 6th voting district and part of parcel is in the 0.2 percent and AE flood area.

Note: This will serve as public notice to all adjoining property owners of the above requests:

Item (1) – Paul & Faye Dickens, Claude E. Wair Jr., Harold & Dorothy Chaffin and Jack S. McCanless Jr.

Item (2) – South Harpeth Property Partnership, Sam Arthur Butts III, Charles & Andrea Hand, American Legion, Richard & Nancy Douglas, Betty Jones, Phillip C. & Phillip M. Denning

Item (3) – Steven Hutchison, Sam Arthur Butts III, Carrie Christian, Paul & Kimber Lee Baldinger, Jeffrey Wells, John & Annette Haines, Marie Taylor Alexander, American Legion

ITEM #1: Chairman Jarrell read the item into the record as advertised. Mr. Brett Smith summarized the final comments he had as planning consultant for this item. ****Motion**** Motion made by Mr. Cullen to approve the Final Master Plan as Presented with Conditions Stated by Mr. Smith; Second by Mr. Keenan; Roll Call vote taken; Voting Yes – Chester Hannah, James Atkins, Roger Hamiter, Mark Jarrell, Tom Cullen, Tonnie Trotter and Perry Keenan; Voting No – None; Voting to Abstain – John F. Werne III; Absent – Buddy Wright; **Motion Passed**

ITEM #2: Chairman Jarrell read the item into the record as advertised before the Public Forum section was opened. The Public Forum section was opened by Chairman Jarrell. At the midpoint during the Public Forum section and at the request of Chairman Jarrell, Brett Smith described the item that is currently before the Planning Commission. Mr. Smith stated that this item is being determined if this proposed land use is suitable for the health, safety and welfare of this site and taking into consideration the surrounding land uses and the growth plan for the area. He continued that this Planning Commission is not considering specific design elements at this time, but just the suitability of this use given its existing conditions and in accordance with the surrounding land uses and the growth plan for the area. Chairman Jarrell reconvened the Public Forum section. Motion was made to close to the Public Forum Section by Mr. Keenan with a second by Member Atkins. Voice Vote passed unanimously by all members present. Applicant and applicant's council was allowed to review information presented to

Building Director Atkins during this meeting by Andrea Hand concerning this item for the record. Chairman Jarrell reconvened the meeting. Mr. Smith reiterated again that the Planning Commission is considering the suitability of this proposed land use in the context of the health, safety and welfare and the surrounding land uses and the growth plan for this corridor. Mr. Smith presented the maps of the site and the area. He described the site in relation to the surrounding county area. His maps showed the ranges of a variety of different weaponry from this site to other areas of the county. He explained the information provided to the members in their packets and given prior to this meeting. He explained that these maps do not take into account intervening topography. Mr. Jason Holomon spoke on behalf of the applicant as his council. Mr. Holomon explained that the applicant is not requesting a rezone, just a site plan review. He stated that the property is currently zoned I-2 and quoted the general description of the I-2 zoning category from the Cheatham County Zoning Resolution. He further stated that use being contemplated here falls under item number 6 "Extensive Impact Community Facilities". He stated that a gun range is similar to a military facility under item 6. He stated that the applicant is willing to work with staff to address the safety issues. He stated that it would not be a night-time firing range. He stated that what has been presented to this board is what meets state safety requirements for an outdoor gun range. He stated that in regards to the information presented earlier that the approval had been revoked, it has been revoked because county approval had not been given, not because what is being presented is substandard. He pointed out that the applicant has installed side-berms and tire stops. He stated that accredited instructors will be conducting the classes. Mr. Charles Dean spoke concerning addressing the staff comments. Brett Smith mentioned that the items under number 6 are governmental or quasi-governmental uses and not private businesses. Mr. Holomon responded that the list under number 6 are illustrative and not the actual list. He continued that he would disagree that they are all of such governmental uses and that correction institutions can be private, truck yards and railroad are entirely private, etc.. Mr. Werne asked that the owner/operator describe how this business will operate. Mr. King, the owner, stated that it will be a gun range for handgun carry permit classes. He continued that it will operate on Saturdays. He stated that he couldn't guarantee that it would be Saturday only because they have private customers from time to time. He stated that the classes are limited to 25 per class and they use .22 caliber pistols. Member Atkins asked if any other type of weapon be fired there. Mr. King stated yes. Mr. Holomon clarified that any such other weapons will be by employees of the business. Member Atkins stated that a military installation such as Fort Campbell has a firing range, but it is restricted within the installation to authorized personnel. Member Atkins asked what is the difference between a Fort Campbell with a restricted area and a gun range like this without one. Mr. Holomon responded that he assumes that the standards set by the Department of Safety are safe and that the applicant is willing to work within reason to further improve its safety. Member Atkins asked Mr. Holomon if he would feel safe sitting on the other side of that berm. Mr. Holomon said that he might not feel safe directly behind the berm but would feel safe at a distance where all the residents are located. Mr. Cullen expressed concern over the types of weapons that could be used and their effective

ranges and what guarantees exist to control what is fired. Mr. King responded that it is a handgun range. Mr. Cullen asked if that meant .45 caliber pistols could be fired without an overhead baffle or roof or structure. Mr. Holomon stated that the Department of Safety has a process. Mr. Cullen interrupted him to say that it is this board they must satisfy and not the Department of Safety. Mr. Holomon responded that he realized that and the owner is willing to address their concerns. He further stated that Cheatham County currently allows gunfire in residential areas without notice. Mr. Hamiter asked if the owner's business selling automatic weapons. Mr. King responded only semi-automatic like an AR-15. Mr. Hamiter asked if someone bought an AR-15 from him could they go out to the gun range and fire it. Mr. King said no, maybe later, but no. Member Atkins asked if a high-powered rifle like a .306 be zeroed in here. Mr. King said yes. Mr. Hamiter asked if the State Police or the Secret Service could come there and fire full-automatic weapons. Mr. King said no and they have no contracts with such organizations right now. Mr. Hannah expressed concern that in the condition that the site is now without fences that children could wander onto it and expressed such access concern going forward. Mr. Holomon stated that there are actually no fence requirements by the State. Mr. Holomon stated that there are currently no specific requirements in our zoning code in regard to what we are discussing tonight; it would only be on a general authority of this Planning Commission to set generic health, safety and welfare standards as what this Planning Commission deems them to be. He finished by saying that it is direction as to what those additional standards over and above the Department of Safety are within reason that they are before this Planning Commission tonight. Chairman Jarrell asked if there are ways to prevent bullets from leaving the property from all angles. Mr. Holomon responded that the berms could be heightened, but is looking to this body for direction of other ways. Chairman Jarrell stated that there are baffles, bullet catchers, etc. and there is nothing being shown on this plan. He continued that this is a "blue sky" range given its relation elevation-wise to the Harpeth River and the land beyond. Mr. Holomon said that if there are further measures that this body could recommend, they are willing to consider them, but there comes a point where extra measures would make this site cost-prohibitive compared to other locations. Chairman Jarrell asked if an indoor range was possible. Mr. Holomon said that would be out of the question. Mr. Werne asked Sheriff Holder his opinion on this site. Sheriff Holder summarized his department's use of the police academy's range in Donelson, TN. He stated that it's berm is between 8' and 10' tall and stated that several law enforcement organizations use it. There has been no problems there, but he couldn't guarantee there would not be a problem on this one. Mr. Werne asked Sheriff Holder if that range was open to the public and he responded no it was not only to law enforcement. Mr. Werne expressed concern over inexperienced people's use of the range as opposed to experienced individuals like at the Donelson range. Mr. Holomon said that no one will be allowed on this site unless they are supervised by a range officer. Mr. Jarrell asked how many supervisors will be present per shooter. Someone responded that they were allowed 1 per 4, but would have 1 per 2 shooters. Mr. Cullen asked what percentage student/class shooting to employee shooting using the range there would be. Mr. Holomon responded about 90/10. Member Atkins asked if any of their students didn't pass. One of the owner's employees

responded yes. Mr. Keenan asked if such students had fired over the berm (audience laughed). Same said employee summarized the general causes for a student to fail. Mr. Werne asked that same employee where the classes currently test now. He responded nowhere except for an alternate range they use from time to time. Mr. Hannah asked the existing berm heights and verifying proposed heights. Same said employee responded that they would be built to the specified heights and be monitored monthly to verify their heights for maintenance. Mr. Hamiter stated that when he took his gun-carry permit class and after they completed the paperwork, they went out back to the indoor range portion of the building. He continued saying that range was very close to the location where the rest of the process took place and, therefore, how did they arrive at the decision to place their range at this location? Mr. Holomon responded that it was affordable, available and industrially zoned. He further stated that it is important to point out that this property's current zoning allows for uses such as smelting plants. Chairman Jarrell and Mr. Hannah questioned Mr. Holomon about the potential lead run-off from the spent bullets. Mr. Holomon responded that, having worked for the attorney general in the past enforcing stormwater regulations, the potential environmental impact to the Harpeth River from the spent bullets was way down the list from the other uses allowed by right in an I-2 zone. He continued by saying the run-off would have to be address with a NPDES permit. Chairman Jarrell expressed concern about the safety zone behind the berm. Mr. Werne asked exactly what are we deciding now. Brett Smith stated that there are two things to consider; either it is a use a by right as an Extensive Impact Community Facility in which case the Planning Commission has jurisdiction to consider this item or it is a use to be considered as a Special Exception under Section 5.062 (D) (4) as a use similar in character and function to permitted uses in which case the Board of Zoning Appeals would have jurisdiction to consider this item. Mr. Holomon stated a gun range is less impactful than many of the uses permitted by right under the I-2 zone and that the Extensive Impact Community Facilities list is just illustrative. Brett Smith responded special exceptions are necessary for uses that are impactful and that the uses permitted by right under said list are impactful, but there impact is contained within their property; however, it has been extensively pointed out in these deliberations that an outdoor gun range can affect properties well outside this I-2 district in which case it may need to be considered as a special exception. County Attorney Bill Herbert spoke to say that in his capacity he does not take sides, but wants to clarify what this board's jurisdiction is the way that he sees it. He continued by saying the applicant is here for site plan review and this commission needs to review this site plan and determine whether or not it is safe from a health, safety and welfare perspective and from a planning perspective as to if it is in keeping with the growth of the surrounding area in this area of the county. Mr. Holomon made a suggestion. He said that our zoning resolution allows the Planning Commission to set conditions on the site plan and it also allow the Board of Zoning Appeals to set conditions on the site plan. He continued that his client is willing to submit to some reasonable conditions as to the site. He respectfully requested that this body consider this item because it will be just a different group of people with the same set of issues if it goes before the Board of Zoning

Appeals as opposed to this body. He said he didn't see any functional distinction in authority between the two bodies. Member Atkins stated he didn't see how the applicant can contain or that this body could make any recommendations on how to contain the ammunition on a 5 acre site. He continued to say that if they could build an indoor facility, in his opinion, they could bless it in a heartbeat. He continued to say that if he is asked to vote for it just because it is I-2 with conditions on it, then build a building, go inside, lock the doors and shoot all you want. Chairman Jarrell asked that the Department of Energy information be put up to see and reiterated what Member Atkins said. Mr. Werne asked what the elevation difference was from the range down to the river and beyond. Brett Smith stated that it was about 80 feet. Mr. Hannah asked about the affect of the county's noise ordinance on this item. Chairman Jarrell asked if there were any more comments. Mr. Keenan made a motion to deny based upon this item not protecting the health, safety and welfare of the area due to elevation differences and proximity to neighboring homes. Chairman Jarrell restated the motion. Mr. Holomon asked if he is to assume with this motion that this body agrees that this use if permitted by right and it has jurisdiction to consider it. County Attorney Herbert spoke to say, if he understands Mr. Holomon's stance, you have a site plan in front of you and there are some uses permitted by right, but a gun range is not listed as one of them. He continued by saying because a military installation is a use permitted by right, then Mr. Holomon interrupted to say that his argument is that the category of Extensive Impact Community Facilities is illustrative in nature. Section 5.062 (B) (6) of the Cheatham County Zoning Installation was looked up and read into the record by Chairman Jarrell concerning the I-2 zoning classification. It was bantered back and forth between Chairman Jarrell and Mr. Holomon concerning the interpretation of the description of this portion of the resolution. County Attorney Herbert spoke to say the Planning Commission needs to read point number 6 and determine if this use falls under the criteria of number 6. He continued by saying that he couldn't tell them whether it does or does not, that is this body's job. Further, he said that if the answer is yes, it is a use permitted by right under an I-2 base zone, then this body has jurisdiction to review this site plan, impose conditions, approve it as is or turn it down. Further, he said that if this body determines what the applicant is requesting is not covered under number 6 but something else, look down to (D) (4) under Uses Permitted as Special Exception where it basically says any other uses similar in character and function to those uses permitted in the I-2 zone. It is this body's responsibility to determine which applies. If this body feels (D) (4) is proper and it is a use to be considered as a special exception, then the Board of Zoning Appeals has jurisdiction to review and impose conditions. Mr. Herbert asked Mr. Holomon if he agreed and he said yes, except to say that the Planning Commission also has the right to impose conditions. Building Director Atkins asked Chairman Jarrell if the Planning Commission should vote as to whether or not it has jurisdiction to consider it first. Chairman Jarrell agreed. Mr. Keenan requested that his motion be withdrawn in accordance with Roberts Rules. Chairman Jarrell acknowledged the motion was withdrawn. ****Motion****Mr. Werne made the motion that the proposed gun range falls under I-2 zoning by right. The motion was seconded by Mr. Cullen. Member Atkins asked Building Director Atkins to read the formal motion into the record. Building Director Atkins read the motion as follows:

Mr. Werne made a motion that the Planning Commission hereby deems this proposed gun range falls under classification of a use by right in accordance with Section 5.062 I-2 Heavy Industrial District (B) (6) Extensive Impact Community Facilities. Roll call vote was taken by Chairman Jarrell. Voting Yes - Roger Hamiter, Tom Cullen and Mark Jarrell; Voting No – Chester Hannah, John F. Werne III, Tonnie Trotter, James Atkins and Perry Keenan; Voting to Abstain - None; Absent – Buddy Wright. **Motion Failed.** Chairman Jarrell asked if there is another motion. Mr. Herbert stated that someone should make a motion that this use is not permitted by right, it is a use that can be permitted by special exception and the Board of Zoning Appeals has jurisdiction. Building Director Atkins read into the record Section 5.062 (D) (4) of the Zoning Resolution and explained the authority the Board of Zoning Appeals has in such oversight. Mr. Herbert further explained that the Board of Zoning Appeals has the right to review the site plan and impose general and specific conditions in regards to health, safety and welfare and if this body view that (D) (4) applies, a motion needs to be made to send it to the Board of Zoning Appeals. Mr. Holomon expressed concern that he personally believes the Board of Zoning Appeals is, in such a condition, being given legislative authority it does not possess and asked that his client be given the right to raise such concern. Mr. Herbert stated that such a concern is one that can be raised in court should it reach such a level. Building Director Atkins stated that he believed that if sending it to the Board of Zoning Appeals is proper, then a motion needs to be made. ****Motion**** Motion made by Member Atkins to send this item to the Cheatham County Board of Zoning Appeals for consideration; second by Mr. Werne. Roll call vote was taken by Chairman Jarrell. Voting Yes – James Atkins, Tonnie Trotter, John F. Werne III, Mark Jarrell, Chester Hannah, Perry Keenan and Roger Hamiter; Voting No – Tom Cullen; Voting to Abstain - None; Absent – Buddy Wright. **Motion Passed - Item is to go to the Board of Zoning Appeals for consideration.** Discussion took place between Mr. Werne, Building Director Atkins, Brett Smith and Mr. Herbert concerning actions that the applicant needs to take to go before the Board of Zoning Appeals. It was determined that the applicant would have to submit a new application to the Building Department, however, the current site plan and current planning review comments would be sufficient as a start in the review process for the Board of Zoning Appeals. Building Director Atkins also stated that the deadline for the March meeting had already passed. Mr. Holoman stated that he understood and agreed, but, due to scheduling conflicts as city attorney for Mt. Juliet, he would request a special called meeting in March if possible. Mr. Herbert stated that we would see what is available and if it is possible with no guarantees and, if so, the item will be publicly advertised. Building Director Atkins stated that it will be handled like a brand new application and have an advertising sign along the property. The owner, Mr. King, asked if another application needed to be submitted. Building Director Atkins responded yes and it will require another \$110.00 fee payment be submitted. The issue of the deadline for such application was summarized again for Mr. King so that he understood.

ITEM #3: Chairman Jarrell read the item into the record. Brett Smith read and explained the staff comments. Mr. Smith explained that whether the applicant's property is zoned agriculture or a form of residential, the I-2 has a 40' buffer requirement in accordance with Section 3.110

(C). This 40' buffer zone is required to be open with no site improvements and must be landscaped. Mr. Werne stated that she would not gain anything accordingly. Mr. Smith agreed due to no building allowed in that 40' in accordance with the buffer requirements. Mr. Keenan asked what is to be gained. Mr. Smith stated that a 40' buffer is required whether it is rezoned or not. The applicant, Ms. Hand, stated that she has lived here for many years and feel that this rezone would provide her greater protection against potential development in the future. Building Director Atkins expressed spot zoning concerns with this rezone request. Mr. Smith stated that there are step-down zoning situations where you have an intense zoning classification transitioning to residential and to agriculture. Mr. Smith stated that a rezone from Agriculture to E-1 is a very minor spot zoning issue compared to other such situations and does exist in several places in the county. Mr. Smith said that rezoning to a commercial zone, there would be much greater concerns. Member Atkins stated that he has no problem rezoning it to E-1. Chairman Jarrell stated that he such a rezone does not appreciably change the potential future character of growth in the area. Mr. Atkins pointed out such a rezone would eliminate the ability to install a single-wide mobile home. Mr. Smith stated that the current buffer impact would fall on the I-2 property only; there is not a case that the buffer requirements require a buffer for the residential property relative to the I-2 property. Mr. Hutchison, the adjacent I-2 property owner, expressed concern over the setback/buffer requirements on his property if she gets her rezone approved as requested. Mr. Smith responded that a 40' will be required on his property in regards to further development whether the applicants gets her rezone or not. Mr. Hutchison asked what the point was with this rezone then. Mr. Hutchison asked if he was correct in saying that this won't affect him. He was told yes. Ms. Hutchison asked if it could be put off because she believe there was an ulterior motive. ****Motion**** Motion was made by Mr. Keenan to approve the rezone from Agriculture to E-1 as advertised to be sent to the County Commission for consideration of this recommendation; second by Mr. Hamiter. Voting Yes – Chester Hannah, James Atkins, Roger Hamiter, Mark Jarrell, Tom Cullen, Tonnie Trotter and Perry Keenan; Voting No – John F. Werne III; Voting to Abstain - None; Absent – Buddy Wright. **Motion Passed – Recommended approval to County Commission**

Having no further business, ****motion** was made to adjourn by Mr. Werne; second by Mr. Keenan. Voice vote carried unanimously by all present.

**JAMES ATKINS – SECRETARY
CHEATHAM COUNTY PLANNING COMMISSION**